

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES – GENERAL

Case No. SA CV 14-0347-DOC (ANx)
SA CV 14-0348-DOC (ANx)
SA CV 14-0920-DOC (ANx)
SA CV 14-1266-DOC (ANx)

Date: March 12, 2015

Title: MODERN TELECOM SYSTEMS LLC V EARTHLINK, INC.
MODERN TELECOM SYSTEMS LLC V JUNO ONLINE SERVICES INC., ET AL.
MODERN TELECOM SYSTEMS LLC V FUJITSU LIMITED ET AL.
MODERN TELECOM SYSTEMS LLC V LENOVO GROUP LIMITED ET AL.

PRESENT:

THE HONORABLE DAVID O. CARTER, JUDGE

Deborah Goltz
Courtroom Clerk

Not Present
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFF:
None Present

ATTORNEYS PRESENT FOR DEFENDANT:
None Present

**PROCEEDINGS (IN CHAMBERS): ORDER TO SHOW CAUSE RE:
SCHEDULING, CONSOLIDATION**

Before the Court are the four cases listed above, all filed by Plaintiff Modern Telecom Systems, LLC. These cases appear to share: (1) the same causes of action based on the same patents or group of patents; (2) the same Plaintiff; and (3) the same counsel for Plaintiff. Accordingly, the Court ORDERS Parties to SHOW CAUSE why some or all of these cases should not be consolidated for pretrial discovery and motions practice. A decision about the appropriateness of consolidation for trial shall occur at a later date.¹

¹ Pursuant to the America Invents Act, 35 U.S.C. § 299(b), “accused infringers may not be joined in one action as defendants or counterclaim defendants, or have their actions consolidated for trial, based solely on allegations that they each have infringed the patent or patents in suit.” Thus, the cases would be consolidated for pretrial purposes only at this point. Unless defendants waive their rights under the America Invents Act, *see* 35 U.S.C. § 299(c), or it is determined that “questions of fact common to all defendants or counterclaim defendants will arise in the action,” *see* 35 U.S.C. § 299(a)(2), each defendant will be afforded its right to a separate trial.

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Date: March 12, 2015

The Court hereby orders as follows:

- (1) All parties shall file a response to this Order, preferably jointly, of no more than 5 pages on or before **April 6, 2015**. Failure to file a response to this Order shall be deemed consent to consolidating these cases. The Parties should address whether the dates currently set in the respective cases should be vacated and aligned with the dates to be set in the matter of *Modern Telecom Systems LLC v. Fujitsu Limited et al.*, set for a scheduling conference on April 20, 2015.
- (2) In any event, *all* parties in all four cases shall appear before this Court on **Monday, April 20, 2015, at 8:30 a.m.** and should be prepared to discuss consolidation and scheduling.
- (3) Parties in all cases shall confer prior to the hearing date regarding their respective positions re: consolidation.

The Clerk shall serve this minute order on the parties.

MINUTES FORM 11
CIVIL-GEN

Initials of Deputy Clerk: djg